

## FACT SHEET

### **Criminal Code Amendment (Sexual Offences Against Young People) Bill 2013**

The Bill makes the following amendments to the *Criminal Code Act 1924* in response to the recommendations of the Tasmanian Law Reform Institutes Final Report on *Sexual Offences Against Young People*:

- (a) introduces an age (13 years) below which mistake as to age cannot be raised in relation to a sexual offence against a young person;
- (b) provides that mistake as to age in relation to sexual offences against a young person will not be honest and reasonable unless the accused took all reasonable steps to ascertain the young person's age;
- (c) clarifies that mistake as to age in relation to sexual offences against a young person can be relied on for the purpose of a consent defence based on age similarity;
- (d) omits subsection 124(5) so that a consent defence based on age similarity will apply to anal sexual intercourse;
- (e) makes the onus of proof in relation to mistake as to age consistent for all sexual offences against a young

person. The onus of proof in all cases is on the prosecution;

- (f) amends section 125A to -
  - (i) include an extra-territorial provision to make it clear that, provided at least one unlawful sexual act was committed in Tasmania, unlawful sexual acts committed outside the State can be taken into account;
  - (ii) make it clear that to qualify as an unlawful act, any unlawful act committed outside Tasmania must be both an offence under the law outside Tasmania and an unlawful act in Tasmania;
  - (iii) omit subsection (5); and
- (g) inserts a new section 460 to clarify that the amendments made by this Bill do not apply in relation to an offence committed before the amendments commence.